

SENATE BILL No. 558

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-11-14.

Synopsis: Fireworks. Revises the dates that consumer fireworks may be used. Provides that a person who recklessly, knowingly, or intentionally sells: (1) sky rockets or bottle rockets; or (2) consumer fireworks to a person less than 18 years of age; commits a Class A misdemeanor. Provides that a person who recklessly, knowingly, or intentionally ignites, discharges, or uses sky rockets or bottle rockets commits a Class A misdemeanor. Provides that the state fire marshal shall revoke any certificate of compliance for the sale of fireworks issued to a person who has been convicted of certain crimes.

Effective: July 1, 2007.

Mrvan

January 23, 2007, read first time and referred to Committee on Local Government and Elections.

C
o
p
y



Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 558

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-11-14-1, AS AMENDED BY P.L.187-2006,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]: Sec. 1. As used in this chapter and IC 22-11-14.5:

4 "Auto burglar alarm" means a tube that contains pyrotechnic
5 composition that produces a loud whistle or smoke when ignited. A
6 small quantity of explosive, not exceeding fifty (50) milligrams, may
7 also be used to produce a small report. A squib is used to ignite the
8 device.

9 "Booby trap" means a small tube with string protruding from both
10 ends, similar to a party popper in design. The ends of the string are
11 pulled to ignite the friction sensitive composition, producing a small
12 report.

13 "Chaser" means a device, containing fifty (50) milligrams or less of
14 explosive composition, that consists of a small paper or cardboard tube
15 that travels along the ground upon ignition. A whistling effect is often
16 produced, and a small noise may be produced.

17 "Cigarette load" means a small wooden peg that has been coated

2007

IN 558—LS 7587/DI 96+



C
o
p
y

with a small quantity of explosive composition. Upon ignition of a cigarette containing one (1) of the pegs, a small report is produced.

"Consumer firework" means a small firework that is designed primarily to produce visible effects by combustion, and that is required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR 1507. The term also includes some small devices designed to produce an audible effect, such as whistling devices, ground devices containing fifty (50) milligrams or less of explosive composition, and aerial devices containing one hundred thirty (130) milligrams or less of explosive composition. Propelling or expelling charges consisting of a mixture of charcoal, sulfur, and potassium nitrate are not considered as designed to produce an audible effect. Consumer fireworks:

(1) include:

(A) aerial devices, which include sky rockets, missile type rockets, helicopter or aerial spinners, roman candles, mines, and shells;

(B) ground audible devices, which include firecrackers, salutes, and chasers; and

(C) firework devices containing combinations of the effects described in clauses (A) and (B); and

(2) do not include the items referenced in section 8(a) of this chapter.

"Cone fountain" means a cardboard or heavy paper cone which contains up to fifty (50) grams of pyrotechnic composition, and which produces the same effect as a cylindrical fountain.

"Cylindrical fountain" means a cylindrical tube not exceeding three-quarters (3/4) inch in inside diameter and containing up to seventy-five (75) grams of pyrotechnic composition. Fountains produce a shower of color and sparks upon ignition, and sometimes a whistling effect. Cylindrical fountains may contain a spike to be inserted in the ground (spike fountain), a wooden or plastic base to be placed on the ground (base fountain), or a wooden handle or cardboard handle for items designed to be hand held (handle fountain).

"Dipped stick" or "wire sparkler" means a stick or wire coated with pyrotechnic composition that produces a shower of sparks upon ignition. Total pyrotechnic composition does not exceed one hundred (100) grams per item. Those devices containing chlorate or perchlorate salts do not exceed five (5) grams in total composition per item. Wire sparklers that contain no magnesium and that contain less than one hundred (100) grams of composition per item are not included in the

C
o
p
y



category of consumer fireworks.

"Distributor" means a person who sells fireworks to wholesalers and retailers for resale.

"Explosive composition" means a chemical or mixture of chemicals that produces an audible effect by deflagration or detonation when ignited.

"Firecracker" or "salute" is a device that consists of a small paper wrapped or cardboard tube containing not more than fifty (50) milligrams of pyrotechnic composition and that produces, upon ignition, noise, accompanied by a flash of light.

"Firework" means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, items referenced in section 8(a) of this chapter, and special fireworks. The following items are excluded from the definition of fireworks:

- (1) Model rockets.
- (2) Toy pistol caps.
- (3) Emergency signal flares.
- (4) Matches.
- (5) Fixed ammunition for firearms.
- (6) Ammunition components intended for use in firearms, muzzle loading cannons, or small arms.
- (7) Shells, cartridges, and primers for use in firearms, muzzle loading cannons, or small arms.
- (8) Indoor pyrotechnics special effects material.
- (9) M-80s, cherry bombs, silver salutes, and any device banned by the federal government.

"Flitter sparkler" means a narrow paper tube filled with pyrotechnic composition that produces color and sparks upon ignition. These devices do not use a fuse for ignition, but rather are ignited by igniting the paper at one (1) end of the tube.

"Ground spinner" means a small spinning device that is similar to wheels in design and effect when placed on the ground and ignited, and that produces a shower of sparks and color when spinning.

"Helicopter" or "aerial spinner" is a spinning device:

- (1) that consists of a tube up to one-half (1/2) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition;
- (2) to which some type of propeller or blade device is attached; and
- (3) that lifts into the air upon ignition, producing a visible or audible effect at the height of flight.

C
o
p
y



"Illuminating torch" means a cylindrical tube that:

- (1) contains up to one hundred (100) grams of pyrotechnic composition;
- (2) produces, upon ignition, a colored fire; and
- (3) is either a spike, base, or handle type device.

"Importer" means:

- (1) a person who imports fireworks from a foreign country; or
- (2) a person who brings or causes fireworks to be brought within this state for subsequent sale.

"Indoor pyrotechnics special effects material" means a chemical material that is clearly labeled by the manufacturer as suitable for indoor use (as provided in National Fire Protection Association Standard 1126 (2001 edition)).

"Interstate wholesaler" means a person who is engaged in interstate commerce selling fireworks.

"Manufacturer" means a person engaged in the manufacture of fireworks.

"Mine" or "shell" means a device that:

- (1) consists of a heavy cardboard or paper tube up to two and one-half (2 1/2) inches in inside diameter, to which a wooden or plastic base is attached;
- (2) contains up to forty (40) grams of pyrotechnic composition; and
- (3) propels, upon ignition, stars (pellets of pressed pyrotechnic composition that burn with bright color), whistles, parachutes, or combinations thereof, with the tube remaining on the ground.

"Missile-type rocket" means a device that is similar to a sky rocket in size, composition, and effect, and that uses fins rather than a stick for guidance and stability.

"Party popper" means a small plastic or paper item containing not more than sixteen (16) milligrams of explosive composition that is friction sensitive. A string protruding from the device is pulled to ignite it, expelling paper streamers and producing a small report.

"Person" means an individual, an association, an organization, a limited liability company, or a corporation.

"Pyrotechnic composition" means a mixture of chemicals that produces a visible or audible effect by combustion rather than deflagration or detonation. Pyrotechnic compositions will not explode upon ignition unless severely confined.

"Responding fire department" means the paid fire department or volunteer fire department that renders fire protection services to a political subdivision.

C
o
p
y



"Retail sales stand" means a temporary business site or location where goods are to be sold.

"Retailer" means a person who purchases fireworks for resale to consumers.

"Roman candle" means a device that consists of a heavy paper or cardboard tube not exceeding three-eighths (3/8) inch in inside diameter and that contains up to twenty (20) grams of pyrotechnic composition. Upon ignition, up to ten (10) stars (pellets of pressed pyrotechnic composition that burn with bright color) are individually expelled at several second intervals.

"Sky rocket" or **"bottle rocket"** means a device that:

- (1) consists of a tube that contains pyrotechnic composition;
- (2) contains a stick for guidance and stability; and
- (3) rises into the air upon ignition, producing a burst of color or noise at the height of flight.

"Smoke device" means a tube or sphere containing pyrotechnic composition that produces white or colored smoke upon ignition as the primary effect.

"Snake" or "glow worm" means a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning. The ash expands in length as the pellet burns. These devices do not contain mercuric thiocyanate.

"Snapper" means a small, paper wrapped item containing a minute quantity of explosive composition coated on small bits of sand. When dropped, the device explodes, producing a small report.

"Special discharge location" means a location designated for the discharge of consumer fireworks by individuals in accordance with rules adopted under section 3.5 of this chapter.

"Special fireworks" means fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation, including firecrackers containing more than one hundred thirty (130) milligrams of explosive composition, aerial shells containing more than forty (40) grams of pyrotechnic composition, and other exhibition display items that exceed the limits for classification as consumer fireworks.

"Trick match" means a kitchen or book match that has been coated with a small quantity of explosive or pyrotechnic composition. Upon ignition of the match, a small report or a shower of sparks is produced.

"Trick noisemaker" means an item that produces a small report intended to surprise the user.

"Wheel" means a pyrotechnic device that:

- (1) is attached to a post or tree by means of a nail or string;

C
O
P
Y



(2) contains up to six (6) driver units (tubes not exceeding one-half (1/2) inch in inside diameter) containing up to sixty (60) grams of composition per driver unit; and

(3) revolves, upon ignition, producing a shower of color and sparks and sometimes a whistling effect.

"Wholesaler" means a person who purchases fireworks for resale to retailers.

SECTION 2. IC 22-11-14-6, AS AMENDED BY P.L.187-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) A person who recklessly, knowingly, or intentionally violates section 2(f), 4.5, 5(c), 5(d), 7, 8(a), **8(b)**, 8(c), 8(d), 10, or 11(c) of this chapter commits a Class A misdemeanor.

(b) A person who ignites, discharges, or uses consumer fireworks at a site other than:

(1) a special discharge location;

(2) the property of the person; or

(3) the property of another who has given permission to use the consumer fireworks;

commits a Class C infraction. However, if a person recklessly, knowingly, or intentionally takes an action described in this subsection within five (5) years after the person previously took an action described in this subsection, whether or not there has been a judgment that the person committed an infraction in taking the previous action, the person commits a Class C misdemeanor.

(c) A person less than eighteen (18) years of age who possesses or uses a firework when an adult is not present and responsible at the location of the possession or use commits a Class C infraction. However, if a person possesses or uses a firework when an adult is not present and responsible at the location of the possession or use within five (5) years after a previous possession or use by the person as described in this subsection, whether or not there has been a judgment that the person committed an infraction in the previous possession or use, the person commits a delinquent act under IC 31-37.

(d) A person who ignites, discharges, or uses consumer fireworks:

(1) after 11 p.m.; ~~except on a holiday (as defined in IC 1-1-9-1(a)) or December 31, on which dates consumer fireworks may not be ignited, discharged, or used after midnight; or~~

(2) before 9 a.m.;

on a date other than June 28, June 29, June 30, July 1, July 2, July 3, July 4, July 5, July 6, or December 31 commits a Class C infraction. **A person may ignite, discharge, or use consumer fireworks until midnight on December 31.** However, if a person

C
o
p
y



recklessly, knowingly, or intentionally takes an action described in this subsection within five (5) years after the person previously took an action described in this subsection, whether or not there has been a judgment that the person committed an infraction in taking the previous action, the person commits a Class C misdemeanor.

(e) A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation causes harm to the property of a person commits a Class A misdemeanor.

(f) A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation results in serious bodily injury to a person commits a Class D felony.

(g) A person who recklessly, knowingly, or intentionally uses consumer fireworks and the violation results in the death of a person commits a Class C felony.

(h) A person who knowingly or intentionally fails to collect or remit to the state the public safety fees due under section 12 of this chapter commits a Class D felony.

(i) A person who recklessly, knowingly, or intentionally:

(1) sells; or

(2) ignites, discharges, or uses;

sky rockets or bottle rockets commits a Class A misdemeanor.

SECTION 3. IC 22-11-14-8, AS AMENDED BY P.L.187-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) A person shall not sell at retail, offer for sale at retail, or deliver the following items to a person less than eighteen (18) years of age:

(1) Dipped sticks or wire sparklers. However, total pyrotechnic composition may not exceed one hundred (100) grams per item. Devices containing chlorate or perchlorate salts may not exceed five (5) grams in total composition per item.

(2) Cylindrical fountains.

(3) Cone fountains.

(4) Illuminating torches.

(5) Wheels.

(6) Ground spinners.

(7) Flitter sparklers.

(8) Snakes or glow worms.

(9) Smoke devices.

(10) Trick noisemakers, which include:

(A) Party poppers.

(B) Booby traps.

(C) Snappers.

C
o
p
y



- (D) Trick matches.
- (E) Cigarette loads.
- (F) Auto burglar alarms.

(b) A retailer or wholesaler of consumer fireworks may **not** sell consumer fireworks to a person ~~at least~~ **less than** eighteen (18) years of age.

(c) An individual who sells consumer fireworks must be at least eighteen (18) years of age.

(d) An individual who sells an item set forth in subsection (a) must be at least sixteen (16) years of age.

(e) The fire prevention and building safety commission may adopt rules under IC 4-22-2 establishing procedures to ensure compliance with the age limitations set forth in this section.

SECTION 4. IC 22-11-14-11, AS ADDED BY P.L.187-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) A retailer may not sell consumer fireworks until the retailer has:

- (1) filed the application required under section 4.5(e) of this chapter with the state fire marshal for each location from which the retailer proposes to sell the consumer fireworks, which must be filed on an annual basis; and
- (2) paid an accompanying registration fee of:
 - (A) one thousand dollars (\$1,000) for the first location if a fee under section 5(b)(3) of this chapter has not been paid;
 - (B) five hundred dollars (\$500) for each additional sales location in a tent; and
 - (C) two hundred dollars (\$200) for each additional sales location in a structure;

from which the retailer proposes to sell the consumer fireworks. Upon receipt of the completed application form, the accompanying fee, and, if required, the affidavit under subsection (b), the state fire marshal shall issue a certificate of compliance to the retailer for each sales location.

(b) A person seeking a certificate of compliance authorizing the sale of consumer fireworks at retail from a structure identified in section 4.5(b)(1), 4.5(b)(2), or 4.5(c) of this chapter, or from a tent under section 4.5(a) of this chapter shall submit with the application:

- (1) an affidavit executed by a responsible party with personal knowledge, establishing that consumer fireworks were sold at retail or wholesale from a structure at the same location as of a date set forth in section 4.5(b)(1), 4.5(b)(2), or 4.5(c) of this chapter, or from a tent as of a date set forth under section

C
o
p
y



1 4.5(a)(9) of this chapter; and

2 (2) proof of sales of consumer fireworks from that location.

3 (c) A person may not sell consumer fireworks at retail if a certificate
4 of compliance from the state fire marshal has not been issued for the
5 location showing registration under subsection (a).

6 (d) A certificate of compliance issued to a retailer of consumer
7 fireworks is not transferable except to a subsequent owner or operator
8 of a business at the same location in accordance with the policies and
9 guidelines of the state fire marshal.

10 **(e) The state fire marshal shall revoke all certificates of**
11 **compliance for a person who has been convicted of a violation of**
12 **section 2(f) or 6(i) of this chapter or IC 35-47.5-5-2. The state fire**
13 **marshal may not issue another certificate of compliance to the**
14 **person.**

C
o
p
y

